

EXHIBIT A

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4
5 ORACLE AMERICA, INC.,)
6)
7 Plaintiff,)
8) Case No.
9 vs.) CV 10-03561 WHA
10)
11 GOOGLE, INC.,)
12)
13 Defendant.)
14)
15

16 VIDEOTAPED DEPOSITION OF TERRENCE BARR
17 San Francisco, California
18 Wednesday, December 9, 2015
19 Volume I

20 *** HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY ***
21

22 Reported by:
23 CARLA SOARES
24 CSR No. 5908
25 Job No. CS2194450

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 3

1 APPEARANCES:

2

3 For the Plaintiff:

4 ORRICK, HERRINGTON & SUTCLIFFE LLP

5 BY: AYANNA LEWIS-GRUSS

6 Attorney at Law

7 51 West 52nd Street

8 New York, New York 10019

9 212.506.3719

10 alewisgruss@orrick.com

11 and

12 ORRICK, HERRINGTON & SUTCLIFFE LLP

13 BY: MICHELLE O'MEARA

14 Attorney at Law

15 777 South Figueroa Street

16 Los Angeles, California 90017

17 213.612.2418

18 momeara@orrick.com

19

20

21

22

23

24

25

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 4

1 APPEARANCES (Continued) :

2

3 For the Defendant:

4 KEKER & VAN NEST LLP

5 BY: REID MULLEN

6 Attorney at Law

7 633 Battery Street

8 San Francisco, California 94111

9 415.391.5400

10 rmullen@kvn.com

11

12

13 ALSO PRESENT: Ruchika Agrawal

14 Senior Corporate Counsel, Litigation

15 Oracle America, Inc.

16

17 Frank Clare, Video Operator

18

19 --oo--

20

21

22

23

24

25

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 133

1 large number of devices; is that correct?

2 MS. LEWIS-GRUSS: Objection to form.

3 THE WITNESS: I would add one qualifier.

4 The platform needs to be consistent and
5 standardized. That's something developers would be
6 looking for.

7 BY MR. MULLEN:

8 Q But otherwise you agree with the
9 proposition that developers want to write for a
10 platform that is deployed on a large number of
11 devices?

12 A Yes.

13 Q Are there any other reasons you're aware
14 of that in your opinion made Google successful in
15 attracting developers to write for the Android
16 platform?

17 MS. LEWIS-GRUSS: Objection to form.

18 THE WITNESS: I wouldn't list any other
19 topics at this point.

20 BY MR. MULLEN:

21 Q In the third paragraph of the blog post
22 Trial Exhibit 7460.1
23 that we're looking at that's ~~Exhibit 1368~~, you say,
24 "I still applaud Google for the effort. The mobile
25 industry is in the midst of a major shift and
Android is an embodiment of that shift."

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 134

1 What did you mean by "The mobile industry
2 is in the midst of a major shift and Android is an
3 embodiment of that shift"?

4 A Primarily what I meant was that mobile
5 phone platforms were becoming more widespread, more
6 generally available, and more flexible. And also,
7 the value chain was shifting from the carriers and
8 the operators as the primary monetization point to
9 other monetization models. And so that's what I
10 meant by that sentence.

11 Q At the time you wrote this blog post, was 402; 403; 701;
12 the mobile industry undergoing a transformation of 702
13 sorts?

14 A In my opinion, yes.

15 Q And Android was an embodiment of that in this context
16 transformation; is that correct? unduly prejudicial

17 MS. LEWIS-GRUSS: Objection to the form.

18 THE WITNESS: Android was a part of that
19 transformation. It was part of that overall shift.

20 BY MR. MULLEN:

21 Q Was Android a leader, in your opinion, in completeness
22 causing that overall transformation? explains & provides

23 MS. LEWIS-GRUSS: Objection to form.

24 THE WITNESS: No, I wouldn't say so. testimony re
25 /// transformation

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

1 BY MR. MULLEN:

2 Q And why would you say that?

3 MS. LEWIS-GRUSS: Objection to the form.

4 THE WITNESS: There were multiple -- as we
5 spoke before, there were multiple attempts by
6 different companies and different players to
7 establish a mobile phone platform. Android at the
8 time was one of them.

9 BY MR. MULLEN:

10 Q So Android was one amongst several players
11 that were trying to transform the mobile industry?

12 A Yes.

13 Q And were any other of those -- excuse me.
14 Strike that.

15 Were any of those other players able to
16 successfully transform the mobile industry, in your
17 opinion?

18 MS. LEWIS-GRUSS: Objection to form.

19 THE WITNESS: Yes.

20 BY MR. MULLEN:

21 Q And who are you referring to specifically
22 when you say "yes"?

23 A For example, Apple.

24 Q Okay. Is -- in your opinion, Apple is
25 also an embodiment of the shift in the mobile

Page 135

Completeness
explains & provides fuller
context to testimony re
transformation

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 136

1 industry that you're referencing in Exhibit 1368?

2 MS. LEWIS-GRUSS: Objection to form.

3 THE WITNESS: Yes.

4 BY MR. MULLEN:

5 Q Were there any other open source platforms
6 that were successfully able to transform the mobile
7 industry?

8 MS. LEWIS-GRUSS: Objection to form.

9 THE WITNESS: Yes.

10 BY MR. MULLEN:

11 Q And who or what would those platforms be?

12 A So we spoke about those earlier. The
13 platform that I was referring to -- and the name
14 still escapes me -- it was one of those open source
15 Linux-based platforms that were part of that shift
16 at the time, and they provided value during that
17 shift. But again you know, it's a couple years
18 ago. I don't remember the exact details.

19 Q But sitting here today, are you aware of
20 an open source platform that was able to
21 successfully transform the industry?

22 A Yes.

23 Q And who is that open source platform?

24 A But I'm saying I can't recollect the name
25 at this point.

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 137

1 Q Okay. Fair enough.

2 I guess what I'm getting at is, does that
3 mobile -- whatever the unnamed open source platform
4 is that you're thinking of, in your opinion, has
5 that been as successful as Google's Android?

6 MS. LEWIS GRUSS: Objection to form.

7 THE WITNESS: Again, the definition of
8 "success." If the definition of "success" is the
9 number of deployed devices, then that platform has
10 not been as successful as Android.

11 BY MR. MULLEN:

12 Q And why in your opinion is it that that
13 platform has not been as successful in being placed
14 on as many devices as Android is?

15 A I really have no insight into that.

16 Q Regarding Apple, is it fair to say that
17 Apple transformed the mobile industry?

18 A Yes.

19 Q Do you believe that Android transformed 462;403;701;702
20 the mobile industry as well?

21 MS. LEWIS GRUSS: Objection to form.

22 THE WITNESS: I think I answered that
23 before. In some ways, yes.

24 BY MR. MULLEN:

25 Q Is Apple's iOS operating system

*Completeness
explains ; provides
fuller context re
transformation testimony*

*use of word "transformation
unduly prejudicial*

*Completeness
explains ; provides
fuller context re
transformation
973-410-4040*

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 138

1 transformative?

2 MS. LEWIS-GRUSS: Objection to form.

3 THE WITNESS: "Transformative" is a really ^{testimony re} ~~transformative~~ ^{completeness}
4 vague term, so I'm not sure if I can answer that. ^{explains ; provides}
^{fuller context to}

5 BY MR. MULLEN:

6 Q In other words, did it change the status
7 quo in a very significant way when it came out?

8 MS. LEWIS-GRUSS: Objection to form.

9 THE WITNESS: The status quo of the mobile
10 industry, yes.

11 BY MR. MULLEN:

12 Q Was Android transformative?

13 MS. LEWIS-GRUSS: Objection to form.

14 THE WITNESS: I think I already answered
15 that, that I believe in some ways, yes.

16 BY MR. MULLEN:

17 Q You can set aside Exhibit 1368.

18 I want to actually turn back to an exhibit
19 briefly that was previously marked. I apologize. I
20 think it's 1365. It's actually 1367.

21 Earlier we discussed 1367 which appears to
22 be an email exchanged between, amongst others, you
23 and Tom Marble at Sun; is that right?

24 A Yes.

25 Q Towards the bottom of this string there's

402; 403; 701; 702; use
of "transformative" here is
unduly prejudicial

HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

Page 321

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify: .

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [x] was [] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21
22 Dated: _____

23
24 
25 CARLA SOARES
CSR No. 5908